

## SUMMARY ANALYSIS OF AMENDED BILL

Author: Campbell Analyst: Roger Lackey Bill Number: AB 1419  
Related Bills: See Prior Analysis Telephone: 845-3627 Amended Date: 04-14-98  
Attorney: Doug Bramhall Sponsor:

**SUBJECT:** Min Tax/Single Tax Due From Group Of Affiliated Entities In Combined Report

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended \_\_\_\_\_.

☒ AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as introduced/amended \_\_\_\_\_.

FURTHER AMENDMENTS NECESSARY.

DEPARTMENT POSITION CHANGED TO \_\_\_\_\_.

☒ REMAINDER OF PREVIOUS ANALYSIS OF BILL AS INTRODUCED February 28, 1997, STILL APPLIES.

☒ OTHER - See comments below.

### SUMMARY OF BILL

This bill would provide that, in the case of two or more entities that file a combined report in the computation of their California tax liability, only a single minimum franchise tax shall be due from the affiliated entities included in the combined report.

### SUMMARY OF AMENDMENT

The April 14, 1998, amendment deleted the language regarding reducing the minimum franchise tax from \$800 to \$100, and added the language discussed in this analysis.

The Legislative History, Program History/Background and the discussion of the minimum franchise tax in Specific Findings in the department's analysis of the bill as introduced February 28, 1997, still apply.

### Effective Date

This bill would apply to income years beginning on or after January 1, 1998.

### DEPARTMENTS THAT MAY BE AFFECTED:

\_\_\_ STATE MANDATE

\_\_\_ GOVERNOR'S APPOINTMENT

#### Board Position:

\_\_\_ S \_\_\_ O  
\_\_\_ SA \_\_\_ OUA  
\_\_\_ N \_\_\_ NP  
\_\_\_ NA \_\_\_ NAR  
☒ PENDING

#### Agency Secretary Position:

\_\_\_ S \_\_\_ O  
\_\_\_ SA \_\_\_ OUA  
\_\_\_ N \_\_\_ NP  
\_\_\_ NA \_\_\_ NAR  
DEFER TO \_\_\_\_\_

#### GOVERNOR'S OFFICE USE

Position Approved \_\_\_  
Position Disapproved \_\_\_  
Position Noted \_\_\_

Department/Legislative Director Date

Johnnie Lou Rosas 5/1/98

Agency Secretary Date

By: Date:

### SPECIFIC FINDINGS

**Existing state law** provides that a corporation and its related corporations that conduct activities within and outside of California as a part of a unitary business are required to file a combined report to compute California income subject to tax.

The combined report is a means to divide the income of a unitary business among the taxing jurisdictions in which the trade or business is conducted. A combined report is not a "tax return" but merely the name given to the calculations by which multi-entity unitary businesses apportion income on a geographic basis.

The entire amount of unitary business income of all corporations in the unitary group (including unitary members with no property, payroll or sales in California) is aggregated in the combined report.

The combined business income of the unitary group is then apportioned to California using the apportionment formula. Income apportioned to California is then further apportioned among the unitary members subject to tax in California.

Current **state law** provides that each California taxpayer included in the combined report must file its own tax return using Form 100. However, some unitary groups may elect to file a group Form 100 and report the sum of the separate tax liabilities of the unitary members.

**State law** provides that members of a unitary business are taxed individually and that each affiliate doing business, qualified to do business or incorporated in California is subject to at least the minimum franchise tax.

**State law** also provides that all limited liability partnerships, limited liability companies not classified as corporations, limited partnerships, real estate mortgage investment conduits (REMICs), regulated investment companies (RICs), and real estate investment trusts (REITs) organized as corporations in this state are subject to a tax equal to the minimum franchise tax.

**This bill** would provide that in the case of two or more entities that file a combined report in the computation of their California tax liability, only a single minimum franchise tax shall be due from the affiliated entities included in the combined report.

### Policy Consideration

A single corporation would pay the same \$800 minimum franchise tax as a combined entity that may have several members enjoying the privilege of doing business in California.

### Implementation Considerations

A combined report is not a tax return, it is a report used by business entities to calculate each business entity's California income tax. The tax liability of each taxpayer is then calculated separately. It is unclear how the minimum franchise tax would be paid using the combined report.

Because the single minimum franchise tax for two or more entities that file a combined report would apply to income years beginning on or after January 1, 1998, refunds would need to be made to each entity that paid the minimum franchise tax separate from the combined report. Issuing these refunds would create a minor additional workload for the department. Otherwise, implementing this bill would require some changes to existing tax forms and instructions and information systems, which could be accomplished during the normal annual update.

#### FISCAL IMPACT

##### Departmental Costs

This bill would not significantly impact the department's costs.

##### Tax Revenue Estimate

Revenue losses are estimated as follows:

Income Years Beginning After December 31, 1997 Enactment after June 30, 1998 \$ Millions		
1998-9	1999-0	2000-1
(\$20)	(\$13)	(\$13)

This analysis does not consider the possible changes in employment, personal income, or gross state product that could result from this measure.

##### Tax Revenue Discussion

Revenue losses would depend on the number of combined entities that under current law are subject to the minimum franchise tax.

The above estimates are based on prior year tax return data. Approximately 16,400 corporations would be impacted from this change. These estimates do not reflect any behavioral impact that might occur as a result of this change.

#### BOARD POSITION

Pending.